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*ADMITTED IN NY & NJ

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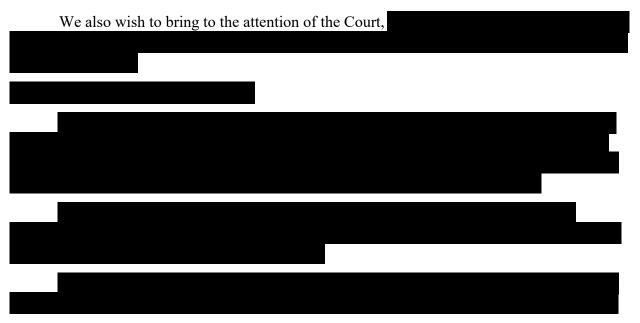
BY EMAIL & ECF

The Honorable Mary Kay Vyskocil United States District Court Southern District of New York 500 Pearl Street New York, New York 10007

> Re: United States v. Navarro, et al, 20 CR 160 Seth Fishman – Defendant

Your Honor:

On behalf of Dr. Fishman, we join in the request by the attorneys for Lisa Giannelli for an adjournment of the trial date based upon the current serious health concern posed by the pandemic.





For these reasons and others, we respectfully submit that the present trial should be adjourned until there has been a substantial reduction in the prevalence of this variant of the virus.

Most respectfully,

/s/Maurice H. Sercarz

AUSA Sarah Mortazavi cc:

AUSA Andrew Adams

AUSA Anden Chow

Louis Fasulo, Esq.

Alex Huot, Esq.

[,] trial before masked jurors implicates the Sixth Amendment right to effective assistance of counsel by preventing counsel from gauging jurors' facial reactions to questions and arguments counsel may advance and tailoring them accordingly. Insofar as the pandemic will reduce or eliminate the number of unvaccinated individuals available for jury service - and to the extent it disproportionately impacts cognizable groups like the elderly and people of color - forcing a trial under these conditions also may implicate Dr. Fishman's right to a jury drawn from a fair cross-section of the community. The former prospect is especially fraught in a case instigated by the Food and Drug Administration. Finally, or another significant disruptions may ensue should key trial participants contract an infection participant, creating substantial trial management problems and risking potential mistrial.